

REMARKS

The Office Action of January 11, 2005 has been carefully studied. As yet, no claim has been allowed. The following paragraphs correspond to the order of the paragraphs of the Office Action:

Election/Restriction

The finality of the Restriction Requirement is noted. In response thereto, claims 2-8 are cancelled, claims 18-21 are revised so that they are dependent methods, and claims 26 and 27 are cancelled.

Priority

Under 35 U.S.C. 120, there is no requirement for characterizing a later filed co-pending application as a continuation in part or the like. In any case, the section of Applicants' specification entitled "Cross-Reference To Related Applications" is now amended to make it clearer as to the inventive entities, and for the time being, only one of the applications is denoted as a continuation in part.

Claim Rejections - 35 U.S.C. 102

With respect to the rejection of claims 1, 9-10, 14-17 and 25 as being anticipated by Ghosal 6,290,996, it is seen that claim 1 is now amended so as to clarify the nature of the standardized extract, support being found on page 4 of the application. This standardized extract differs from the Ghosal extract wherein Applicants' total flavonoids constitute less than 1% by weight of the extract whereas on column 2, line 37, the Ghosal extract contains about 5-15% of Rutin, a flavonoid, as pointed out in Applicants' specification on page 3 starting at line 12 from the bottom. This difference is such that an anticipation rejection is clearly improper, and one of ordinary skill in the art would not have found it to be obvious to change the extract of the reference so as to meet the criteria of Applicants' standardized extract. With respect to

Applicants' claims which are dependent on claim 1, note that claim 17 requires that the flavonoids be present in an amount of only 0.0001 to 0.01% by weight.

Also, with respect to claims 12 and 13, Applicants' methods require that the administration of the therapeutically effective dose must begin at a certain time frame (2 or 3 days or 1 week) before exposure to the sun. There is certainly nothing in the teachings of Ghosal 6,290,996 which would lead one of ordinary skill in the art to use such a method. An even greater differentiation is that there is nothing in Ghosal which would lead one of ordinary skill in the art to conclude that Applicants' method can retard, prevent and reverse the sign of skin photodamage. Conversely, the method of inhibiting blood platelet aggregation is, on information and belief, primarily for the prevention of blood clots. Thus, it is respectfully submitted that there would be no motivation to use Applicants' method.

With respect to "inherency", it is well accepted patent law that to premise a rejection based on inherency, the prior art must necessarily and inevitably carry out the Applicants' method. In the instant case, there is no mention of exposure to sun, much less any relationship to the time period for administering any particular therapy. Still further, since Applicants' extract differs from that of Ghosal, it is unquestionable that a rejection based on inherency is improper.

Claim Rejections - 103

(In the Office Action there is a statement that the present application names joint inventors, but according to Counsel's records there is only one inventor.)

Certain claims were rejected over Ghosal in view of Dewhirst 4,563,526. A close review of this secondary reference shows that on column 6 that the compounds set forth in the reference are indicated as prostaglandin synthetase inhibitors which are of potential value in treating thromboembolic disorders. It is not seen that the teachings of this reference indicate that the compound should be used topically for such a utility. Consequently, it is respectfully submitted that the reference does not provide the proper motivation asserted in the Office Action. Much less does the reference provide any motivation for an emblica extract to be taken both perorally and topically as presently set forth in new claims 28-30.

In view of the above remarks, favorable reconsideration is courteously requested. If there are any residual issues which can be resolved expeditiously by a telephone conference, the Examiner is courteously invited to telephone Counsel at the number indicated below.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,



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